

**§10111.2. Full Compliance Audit Penalty Schedules; Target Audit Penalty Schedule.**

(a) For full compliance audits conducted on or after January 1, 2003, administrative penalties will be assessed pursuant to this subsection (a) for audit subjects that fail to meet or exceed the profile audit review performance standards calculated pursuant to Section 10107.1(c)(3) but meet or exceed the full compliance audit performance standards calculated pursuant to Section 10107.1(d)(3). However, for violations in claims with dates of injury from January 1, 1990 through December 31, 1993, penalty amounts may not exceed the amounts that would be assessed pursuant to Section 10111, and for violations in claims with dates of injury from January 1, 1994 through December 31, 2002, penalty amounts may not exceed the amounts that would be assessed pursuant to Section 10111.1:

(1) The penalty for each failure to pay the 10% self-imposed increase due because of a late indemnity payment, ~~in accordance with Labor Code Section 4650(d)~~ is:

~~\$50 if the self-imposed increase was not paid on the same date together with the indemnity payment pursuant to Labor Code Section 4650(d).~~

~~Penalty amounts for payments made over 30 days late are assessed pursuant to Sections 10108(c) and subsection (a)(1) of this section shown below.~~

If the self-imposed increase was not paid or was only partially paid, the audit penalty is based on the amount of the underlying indemnity and is as follows:

\$50 if the late-paid indemnity totals not more than 3 days;

\$100 if the late-paid indemnity totals more than 3 but not more than 7 days;

\$150 if the late-paid indemnity totals more than 7 but not more than 14 days;

\$200 if the late paid indemnity totals more than 14 but not more than 21 days;

\$300 if the late paid indemnity totals more than 21 but not more than 28 days;

\$500 if the late paid indemnity totals more than 28 days.

(2) The penalty for each failure to pay or denial of rehabilitation maintenance allowance, temporary disability indemnity, or salary continuation in lieu of temporary disability indemnity, without a factual, medical or legal basis for the failure or denial, is:

\$200 for the equivalent of 3 days or less of unpaid indemnity;

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\$400 for the equivalent of more than 3 but not more than 7 days of unpaid indemnity;

\$600 for the equivalent of more than 7 but not more than 14 days of unpaid indemnity;

\$1,000 for the equivalent of more than 14 but not more than 21 days of unpaid indemnity;

\$1,500 for the equivalent of more than 21 but not more than 28 days of unpaid indemnity;

\$2,000 for the equivalent of more than 28 but not more than 35 days of unpaid indemnity;

\$3,000 for the equivalent of more than 35 but not more than 42 days of unpaid indemnity;

\$5,000 for the equivalent of more than 42 days of unpaid indemnity.

(3) The penalty for each failure to pay permanent disability indemnity based on a reasonable estimate of permanent disability, or denial of permanent disability indemnity, without a factual, medical or legal basis, is:

\$400 for up to 6 weeks of unpaid indemnity;

\$800 for more than 6 but not more than 15 weeks of unpaid indemnity;

\$1,500 for more than 15 but not more than 30 weeks of unpaid indemnity;

\$2,000 for more than 30 but not more than 50 weeks of unpaid indemnity;

\$3,000 for more than 50 but not more than 95 weeks of unpaid indemnity;

\$5,000 for more than 95 weeks of unpaid indemnity.

(4) The penalty for each failure to pay death benefits pursuant to Labor Code Section 4701 to any claimant without a factual, medical or legal basis for the failure, is:

\$200 for the equivalent of 3 days or less of unpaid indemnity or for no more than \$300 of unpaid burial expenses;

\$400 for the equivalent of more than 3 but not more than 7 days of unpaid indemnity or for more than \$300, but not more than \$600, of unpaid burial expenses;

\$600 for the equivalent of more than 7 but not more than 14 days of unpaid indemnity or for more than \$600, but no more than \$900, of unpaid burial expenses;

\$1,000 for the equivalent of more than 14 but not more than 21 days of unpaid indemnity or for more than \$900, but no more than \$1,500, of unpaid burial expenses;

\$1,500 for the equivalent of more than 21 but not more than 28 days of unpaid indemnity or for more than \$1,500, but no more than \$2,000, of unpaid burial expenses;

\$3,000 for the equivalent of more than 28 but not more than 42 days of unpaid indemnity or for more than \$2,250 of unpaid burial expenses;

\$5,000 for the equivalent of more than 42 days of unpaid indemnity.

The penalty for each failure to pay to any claimant compensation which was accrued and unpaid to the injured worker at the time of the worker's death is the same penalty which would apply for failure to pay that compensation to the injured worker.

(5) The penalty for each late first payment of temporary disability indemnity is:

\$100 if the first payment was made 1 to 3 days late

\$200 if the first payment was made 4 to 7 days late

\$250 if the first payment was made 8 to 14 days late;

\$300 if the first payment was made 15 to 21 days late;

\$400 if the first payment was made 22 to 30 days late.

Penalty amounts for payments made over 30 days late are assessed pursuant to Sections 10108(c) and subsection (a)(2) of this section.

(6) The penalty for each late first payment of permanent disability is:

\$100 if the first payment was made 1 to 3 days late;

\$200 if the first payment was made 4 to 7 days late

\$250 if the first payment was made 8 to 14 days late;

\$300 if the first payment was made 15 to 21 days late;

\$400 if the first payment was made 22 to 30 days late.

Penalty amounts for payments made over 30 days late are assessed pursuant to Sections 10108(c) and subsection (a)(3) of this section.

For purposes of this subsection, the first payment of permanent disability indemnity shall be considered late if not made within 14 days after the last payment of temporary disability indemnity, or within 14 days of knowledge of the existence of permanent disability, whichever last occurs.

(7) The penalty for each late first payment of VRMA or death benefit is:

\$100 if the first payment was made 1 to 3 days late;

\$200 if the first payment was made 4 to 7 days late

\$250 if the first payment was made 8 to 14 days late;

\$300 if the first payment was made 15 to 21 days late;

\$400 if the first payment was made 22 to 30 days late.

Penalty amounts for payments made over 30 days late are assessed pursuant to Sections 10108(c) and subsection (a)(2) of this section.

(8) The penalty for each underpayment of temporary disability, permanent disability, an indemnity payment (including death benefits, or and VRMA), when the balance of the indemnity was paid late, or late paid self-imposed increases, not paid together with the late indemnity payment including late paid self-imposed increases not paid together with the late temporary disability or permanent disability indemnity payment pursuant to Labor Code Section 4650(d), is:

\$100 for late payment of the equivalent of 3 days of indemnity or less, except it is \$25 for late paid self-imposed increases;

\$200 for late payment of the equivalent of more than 3 but no more than 7 days of indemnity, except it is \$50 for late paid self-imposed increases;

\$250 for late payment of the equivalent of more than 7 but no more than 14 days of indemnity, except it is \$75 for late paid self-imposed increases;

\$300 for late payment of the equivalent of more than 14 but no more than 21 days of indemnity, except it is \$100 for late paid self-imposed increases;

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\$400 for late payment of the equivalent of more than 21 ~~but no more than 30~~ days of indemnity, except it is \$125 for late paid self-imposed increases.

Penalty amounts for underpayments made more than 30 days late are governed by Section 10108(c).

(9) The penalty for each failure to make temporary disability, permanent disability, death benefits or VRMA payments according to the payment schedule defined by Section 10100.2(y) is:

\$100 for each payment made 1 to 3 days late

\$200 for each payment made 4 to 7 days late

\$250 for each payment made 8 to 14 days late;

\$300 for each payment made 15 to 21 days late;

\$400 for each payment made 22 to 30 days late.

Penalty amounts for payments made more than 30 days late are governed by Section 10108(c).

~~(9)~~(10) Penalty amounts assessed pursuant to subsections (a)(1) through (a)(~~8~~) (9) will be increased by 100% if the failure to pay or late payment was in violation of an award or order of the Workers' Compensation Appeals Board or an order of the Rehabilitation Unit.

~~(10)~~(11) Notwithstanding Labor Code Section 129.5(c)(1) and whether or not the audit subject has met or exceeded performance standards calculated pursuant to Section 10107.1(c)(3), penalties will be assessed for failure to pay, or late or partial payment of, a Notice of Compensation Due issued as a result of an audit. Penalties will be assessed as follows:

A penalty in the same amount as the total of the penalties applicable under subsections (a)(1) through (a)(4) and (a)(~~9~~) (10) will be assessed for any compensation paid more than 15 but not more than 30 days after receipt of the Notice of Compensation Due;

A penalty in the amount of 200% of the total of the penalties applicable under subsections (a)(1) through (a)(4) and (a)(~~9~~) (10) will be assessed for any compensation paid more than 30 but not more than 60 days late;

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A penalty in the amount of 300% of the total of the penalties applicable under subsections (a)(1) through (a)(4) and ~~(a)(9)~~ (10) will be assessed for any compensation not paid within 60 days.

~~(11)~~(12) Notwithstanding Labor Code Section 129.5(c)(2) and whether or not the audit subject has met or exceeded performance standards calculated pursuant to Section 10107.1(d)(3), additional penalties will be assessed for late payment or failure of the audit subject to pay any administrative penalties assessed pursuant to this section that are not timely appealed pursuant to Section 10115.1. Penalties will be assessed as follows:

An additional penalty of 50% of the amount of each late paid penalty will be assessed for each penalty paid more than 30 but not more than 60 days from receipt of the Notice of Penalty Assessments;

An additional penalty of 100% of the amount of each applicable penalty will be assessed for each penalty not paid within 60 days of receipt of the Notice of Penalty Assessments.

(b) For full compliance audits conducted on or after January 1, 2003, administrative penalties will be assessed pursuant to subsection (a) and this subsection (b) for audit subjects that fail to meet or exceed the full compliance audit performance standards calculated pursuant to Section 10107.1(d)(3). However, for violations in claims with dates of injury from January 1, 1990 through December 31, 1993, penalty amounts may not exceed the amounts that would be assessed pursuant to Section 10111, and for violations in claims with dates of injury from January 1, 1994 through December 31, 2002, penalty amounts may not exceed the amounts that would be assessed pursuant to Section 10111.1:

(1) The penalty for each failure to investigate a claim as provided by Section 10109 of these Regulations is:

\$500 if the failure to investigate involved a claim for medical treatment only, with no reasonable expectation of liability for indemnity payments, or if the failure to investigate involved the need for medical treatment or testing, but did not involve uncompensated lost time or permanent disability;

\$1,000 if the failure to investigate involved a claim for or reasonable expectation of liability for only one of the following classes of benefits: temporary disability; permanent disability indemnity; or, vocational rehabilitation;

\$2,500 if the failure to investigate involved a claim or reasonable expectation of liability for any combination two of the following classes of benefits: temporary disability; permanent disability indemnity; or, vocational rehabilitation;

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\$5,000 if the failure to investigate involved a claim or reasonable expectation of liability for death benefits, or for all of the following classes of benefits: temporary disability; permanent disability indemnity; and, vocational rehabilitation.

(2) The penalty for each denial of all liability for a claim without documentation supporting a factual, medical, or legal basis for the denial is specified in this subsection.

In order to avoid a penalty, the denial must state a legal, factual or medical basis recognized by applicable law and documented by information in the claim file. An employee's waiver of benefits in an otherwise clearly compensable case is not a ground to deny liability.

The penalty is \$2,500 for a claim involving the potential for medical treatment only, with no potential for liability for indemnity payments;

The penalty is \$4,000 for a claim involving the potential liability for medical treatment and for only one of the following classes of benefits: temporary disability; permanent disability indemnity; or, vocational rehabilitation;

The penalty is \$4,500 for a claim involving the potential liability for medical treatment and for any combination of two of the following classes of benefits: temporary disability; permanent disability indemnity; or, vocational rehabilitation;

The penalty is \$5,000 for a claim involving the potential liability for death benefits, or for all of the following classes of benefits: medical treatment, temporary disability; permanent disability indemnity; and, vocational rehabilitation.

The penalty will be reduced by 20% for good faith if there was an incomplete investigation of the claim.

The total amount assessed for a denial shall be reduced by 50% if the claim was accepted after the denial without evidence that the acceptance was the result of litigation or of the claim's selection for audit.

(3) The penalty for each failure to produce a legible paper copy of a claim file as required by Section 10107 or at the time specified by the Administrative Director is:

\$100 if the file was produced not more than 3 days late;

\$250 if the file was produced more than 3 but not more than 14 days late;

\$500 if the file was produced more than 14 but not more than 29 days late;

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\$1,000 if the file was produced more than 29 days late but not more than 40 days late;

\$2,500 if the file was produced more than 40 days late but not more than 90 days late;

\$5000 if the was produced more than 90 days late or was not produced.

(4) The penalty for providing a backdated or otherwise altered or fraudulent document to the Audit Unit, or intentionally withholding a document from the Audit Unit, which would have the effect of avoiding liability for the payment of compensation or an audit penalty is: \$5,000 for each backdated, altered, or withheld document.

(5) The penalty for each failure to object or pay to the injured worker, within 60 days of receiving a request, reimbursement for the reasonable expense incurred for self-procured medical treatment in accordance with Labor Code Section 4600, is:

\$100 for \$100 or less in expense;

\$200 for more than \$100, to \$500, in expense;

\$300 for more than \$500, to \$1,000, in expense;

\$500 for more than \$1,000 in expense.

(6) The penalty for each failure to pay reasonable expenses of transportation, meals, and lodging incident to reporting to an examination, together with one day of temporary disability indemnity for each day of wages lost when submitting to the examination, when notifying the employee of a medical evaluation scheduled by the claims administrator in accordance with Labor Code Sections 4600 through 4621; or to pay these expenses within 14 days of receiving notice of a medical evaluation scheduled by the Administrative Director or the appeals board; or to object or pay the injured worker for any reasonable transportation expenses incurred to obtain medical treatment or evaluation, within 60 days of receiving a request, is:

\$100 for more than \$10, to \$100, in expense;

\$200 for more than \$100, to \$300, in expense;

\$300 for more than \$300, to \$500, in expense.

\$500 for more than \$500 in expense.

(7) The penalty for each failure to document a factual basis for paying less than the maximum indemnity rate is:

\$50 if the total indemnity, paid and unpaid, totals not more than 3 days;

\$100 if the total indemnity totals more than 3 but not more than 7 days;

\$150 if the total indemnity totals more than 7 but not more than 14 days;

\$200 if the total indemnity totals more than 14 but not more than 21 days;

\$300 if the total indemnity totals more than 21 but not more than 28 days;

\$500 if the total indemnity totals more than 28 days.

(8) The penalty for each failure to comply with any regulation of the Administrative Director specified in this subsection is:

[i] For each failure to include in a claim file a copy of the Employee's Claim for Worker's Compensation Benefits, DWC Form 1, showing the date the form was provided to and received from the employee, or documentation of the date the claim form was provided to the employee if the employee did not return the form, the penalty is:

\$100 if there was any late indemnity payments, or if notice of acceptance of the claim was not issued within 90 days after the employer's date of knowledge of injury and disability, or if the claim was denied.

[ii] For each failure to issue a notice of benefits as required by Title 8, California Code of Regulations, Division 4.5, Chapter 1, Article 8, beginning with Section 9810, or by Title 8, California Code of Regulations, Division 4.5, Chapter 1.5, Article 7, beginning with Section 10122, unless penalties are assessed pursuant to subsections (b)(14) through (b)(20), the penalty is \$100.

[iii] For each Notice of Benefits that was not issued timely as provided in Title 8, California Code of Regulations, Division 1, Chapter 4.5, Subchapter 1, Article 8, beginning with Section 9810, or as provided in Title 8, California Code of Regulations, Division 1, Chapter 4.5, Subchapter 1.5, Article 7, beginning with Section 10122, unless penalties are assessed pursuant to subsections (b)(14) through (b)(20), the penalty is:

\$25 for each notice of first, resumed, changed or final payment of temporary disability indemnity, wage continuation, death benefits, permanent disability indemnity, or VRMA that was issued from 1 to 7 days late;

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\$50 for each notice of first, resumed, changed or final payment of temporary disability indemnity, wage continuation, death benefits, permanent disability indemnity, or VRMA that was issued more than 7 days late, and for each delay in decision notice which was issued from 1 to 7 days late;

\$75 for each delay in decision notice, that was, issued more than 7 days late.

[iv] For each notice of benefits required by Title 8, California Code of Regulations, Division 1, Chapter 4.5, Subchapter 1, Article 8, beginning with Section 9810, (except a materially misleading denial notice assessed under subsection (b)(21) or by Title 8, California Code of Regulations, Division 1, Chapter 4.5, Subchapter 1.5, Article 7, beginning with Section 10122, that is materially inaccurate or incomplete, the penalty is \$25.

[v] For each failure to include in a claim file, or document attempts to obtain, any of the required contents specified in Section 10101.1(b), (c), (d), (e), (f), (g), (h), (i), (j) of these Regulations, the penalty is \$100.

[vi] For each failure to comply with any regulation of the Administrative Director, not otherwise assessed in this Subchapter, the penalty is \$100.

(9) The penalty for each failure to pay or object to a billing for a medical-legal expense, in the manner required by Section 9794, within 60 days of receiving the bill and all reports and documents required by the Administrative Director incident to the services, is:

\$100 for each bill that was paid more than 60 days from receipt with interest and a 10% increase;

\$200 for each bill that was paid more than 60 days from receipt where either interest or a 10% increase was not included;

\$300 for each bill that was paid more than 60 days from receipt where neither interest nor a 10% increase was paid.

\$500 for each bill that was not paid at the time the audit subject was notified the claim was selected for audit where no timely objection was sent.

(10) The penalty for each failure to pay or object, in the manner required by law or regulation, to a bill for medical treatment provided or authorized by the treating physician, is as follows when the bill remains unpaid at the time the audit subject is notified that the claim was selected for audit:

\$100 for each bill of \$100 or less, excluding interest and penalty;

\$200 for each bill of more than \$100, but no more than \$500 excluding interest and penalty;

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\$300 for each bill of more than \$500, but no more than \$1,000, excluding interest and penalty;

\$500 for each bill of more than \$1,000, excluding interest and penalty.

(11) The penalty for each failure to pay or object, in the manner required by law or regulation, to a bill for medical treatment provided or authorized by the treating physician, is as follows when the bill was paid before the audit subject was notified that the claim was selected for audit:

\$100 for each bill that included a 10% increase and interest with the late payment of any uncontested amount of the bill, in accordance with Labor Code Section 4603.2; \$200 for each bill that included either a 10% increase or interest with the late payment of any uncontested amount of the bill, in accordance with Labor Code Section 4603.2; \$300 for each bill that included neither a 10% increase nor interest with the late payment of any uncontested amount of the bill, in accordance with Labor Code Section 4603.2.

(12) The penalty for each failure to pay or object to a vocational rehabilitation bill within 60 days of receipt, as required by Title 8, California Code of Regulations, Sections 10132 and 10132.1, is:

\$25 for each bill of \$100 or less;

\$50 for each bill of more than \$100, but no more than \$200;

\$75 for each bill of more than \$200, but no more than \$300;

\$100 for each bill of more than \$300.

(13) The penalty for each failure to maintain or provide to the Audit Unit a claim log that complies with these Regulations is:

\$25 for each failure to list on a claim log one or more of the following: employee's name; claim number; date of injury;

\$25 for each misdesignation of an indemnity claim as a medical-only claim on the claim log;

\$100 for each failure to identify self-insured employers on the log as required by Section 10103.1(b)(6) of these Regulations;

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\$100 for each failure to identify the underwriting insurance company of an insurance group;

\$100 for each failure to designate a denied claim on the log;

\$100 for each claim not listed on the log;

\$250 for each failure to provide the claim log to the Audit Unit within 14 days of receipt of a written request if the claim log was provided more than 14 but no more than 30 days from receipt of the request;

\$500 for each failure for more than 30 days from receipt of a written request, to provide the claim log to the Audit Unit.

(14) The penalty for each failure to provide information regarding the Americans with Disabilities Act, the Fair Employment and Housing Act, and workers' compensation vocational rehabilitation as required by Labor Code Section 4636(a) immediately after 90 days of aggregate temporary disability indemnity is \$100 if the information was provided or the employee returned to his or her usual and customary occupation more than 10 but not more than 20 days after 90 days of aggregate total disability, and an additional \$100 for each additional delay of not more than 10 days, to a maximum penalty of \$400 if the notice was issued more than 30 days late, and \$500 if the notice was overdue more than 40 days and was not issued at the time the audit subject was notified that the claim was selected for audit.

(15) The penalty for each failure to issue notice of medical eligibility for vocational rehabilitation services (if not previously issued) within 10 days after knowledge of a physician's opinion that the employee is medically eligible, or for failure to issue notice within 10 days after 366 days of aggregate total temporary disability, is \$100 if the notice was issued not more than 10 days late, and an additional \$100 for each additional delay of not more than 10 days, to a maximum penalty of \$400 if the notice was issued more than 30 days late, and \$500 if the notice was overdue more than 40 days and was not issued at the time the audit subject was notified that the claim was selected for audit. Where the injured worker is represented by an attorney and documentation in the claim file indicates that the injured worker's attorney has received a copy of the physician's report indicating the employee is medically eligible for vocational rehabilitation, and if the knowledge is of a physician's opinion other than the injured worker's treating physician, a physician selected from a panel provided by the Industrial Medical Council, or an agreed medical examiner, the penalty shall be assessed at 20% of the amount otherwise assessed under this subsection and shall not exceed \$100.

(16) The penalty for each failure to provide the employee with a copy of the treating physician's final report together with notice of the procedure to contest the treating physician's determination, in accordance with Labor Code Section 4636(d),

immediately upon receipt of that report, is \$100 for compliance more than 10 but not more than 20 days after receipt of the treating physician's final report, and an additional \$100 for each additional delay of not more than 10 days, to a maximum penalty of \$400 if the notice was issued more than 30 days late, and \$500 if the notice was overdue more than 40 days and was not issued at the time the audit subject was notified that the claim was selected for audit. However, if a separate penalty is assessed under subsection (b)(17) for the violation, no penalty will be assessed under this subsection. If the injured worker was notified of the procedure to contest the treating physician's determination, but no copy of the treating physician's final report was provided with the notice, the maximum penalty shall be \$100 under this subsection.

(17) The penalty for each failure to notify an injured employee of the reasons he or she is not entitled to any, or to any further, vocational rehabilitation services, and the procedure for contesting the determination of non-eligibility, as required by Sections 9813(a)(3) and 10131, is \$100 if notification was issued more than 10 but not more than 20 days after the determination, and an additional \$100 for each additional delay of not more than 10 days, to a maximum penalty of \$400 if the notice was issued more than 30 days late, and \$500 if the notice was overdue more than 40 days and was not issued at the time the audit subject was notified that the claim was selected for audit.

(18) The penalty for each failure to notify an injured employee that his or her injury may have caused permanent disability and the procedures for evaluating the permanent disability, or of the employer's position that the injury has caused no permanent disability and the employee's remedies, in the manner provided by Title 8, California Code of Regulations, Division 1, Chapter 4.5, Subchapter 1, Article 8, beginning with Section 9810; is \$100 if the notice was issued up to 10 days late, and an additional \$100 for each additional delay of not more than 10 days, to a maximum penalty of \$400 if the notice was issued more than 30 days late, and \$500 if the notice was overdue more than 40 days and was not issued at the time the audit subject was notified that the claim was selected for audit.

(19) The penalty for each failure to notify a claimant of the denial of all death benefits claimed by that person (except a denial limited to all or any of: burial expense, benefits which were due to the injured worker before his or her death, or medical-legal expense), in the manner provided by Title 8, California Code of Regulations, Division 1, Chapter 4.5, Subchapter 1, Article 8, beginning with Section 9810, is \$100 if the notice was issued up to 10 days late, and an additional \$100 for each additional delay of not more than 10 days, to a maximum penalty of \$400 if the notice was issued more than 30 days late, and \$500 if the notice was overdue more than 40 days and was not issued at the time the audit subject was notified that the claim was selected for audit.

(20) The penalty for each failure to send a notice denying liability for all workers' compensation benefits, in accordance with Title 8, California Code of Regulations, Division 4.5, Chapter 1, Article 8, beginning with Section 9810, is \$100 if the notice was issued up to 10 days late, and an additional \$100 for each additional delay of not more than 10 days, to a maximum penalty of \$400 if the notice was issued more than 30 days late, and \$500 if the notice was overdue more than 40 days and was not issued at the time the audit subject was notified that the claim was selected for audit.

(21) The penalty for each notice denying liability for all workers' compensation benefits, which was materially misleading, is \$500.

The penalty for each materially incomplete denial notice is \$100.

(22) The penalty for each termination, interruption or deferral of vocational rehabilitation services other than as provided by Labor Code Sections 4637(b), 4644(b) is \$1,000.

(23) The penalty for each failure to comply with, show good cause for non-compliance with, or contest, within 30 days of receipt, any written request or order of the Administrative Director or Audit Unit which is not specified in subsections (a)(9)(10) or (b)(14) of this section is:

\$500 if there was compliance in more than 30 but not more than 40 days from receipt of the request or order;

\$1,000 if there was compliance in more than 40 but not more than 60 days from receipt of the request or order;

\$2,500 if there was compliance in more than 60 but not more than 90 days of receipt of the request or order;

\$5,000 for failure to comply within 90 days of receipt of the request or order.

(24) The penalty for each failure to comply with any final award or order of the Workers' Compensation Appeals Board or the Rehabilitation Unit which is not assessed pursuant to subdivision (a)(10), is:

For late compliance with an award or order compliance with an award must be within 20 days of service, plus an additional five days for service by mail), the penalty is:

\$500 for compliance in more than 20 but not more than 35 days from the date of service

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\$1,000 for compliance (other than a late interest payment) in more than 35 but not more than 60 days from the date of service;

\$2,500 for compliance (other than a late interest payment) in more than 60 but not more than 90 days from the date of service;

\$5,000 if there was not compliance (other than failure to pay interest) within 90 days of the date of service.

Penalties will be assessed separately for both late compliance and the failure to pay a portion of an award or order.

~~(24)~~ (25) The penalty for each failure by a claims administrator to provide a claim form within one working day of receipt of a request from an injured worker or the worker's agent is:

\$500 if the claim form was provided in more than 1 but not more than 5 working days from receipt of the request, if benefits were being provided to the employee at the time of the request;

\$1,000 if the claim form was not provided within 5 working days of receipt of the request, if benefits were being provided to the employee at the time of the request;

\$3,000 if the claim form was provided in more than 1 but not more than 5 working days from receipt of the request, if benefits were not being provided to the employee at the time of the request;

\$5,000 if the claim form was not provided within 5 working days of receipt of the request, if benefits were not being provided to the employee at the time of the request.

~~(25)~~ (26) The penalty for each failure to comply with Section 10104 of this Subchapter is:

\$100 for each period of 1 to 14 days' delay in filing the Annual Report of Inventory, to a maximum penalty of \$500 for each Annual Report of Inventory;

\$500 for each Annual Report of Inventory that overstates or understates the number of claims by 10% or more.

(c) Mitigation of penalty amounts pursuant to Labor Code Section 129.5(b)(1) through (b)(7) will be applied as follows:

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- (1) Mitigation for gravity of the violation is included within the penalty amounts set forth in subsections (a) and (b).
- (2) Mitigation for good faith of the insurer, self-insured employer, or third-party administrator will be determined based on documentation of attempts to comply with requirements of the Labor Code and the Administrative Director's regulations, and will result in a reduction of 20% for each applicable violation.
- (3) Mitigation for frequency is considered as included within the numbers of penalties and their amounts established by this section and in conjunction with the frequency of violations that determines whether or not the audit subject meets or exceeds the profile audit review performance standards and/or full compliance audit performance standards pursuant to Sections 10107.1(c)(3) and (d)(3).
- (4) Mitigation for history shall be determined as follows:
  - (A) For audits that meet or exceed the full compliance audit performance standard, penalty amounts will be reduced by 20%, after modification for good faith, if any, in instances in which the audit subject met or exceeded the profile audit review performance standards in the audit preceding the current audit. No reduction shall apply if the preceding audit occurred before January 1, 2003.
  - (B) For audits that fail to meet or exceed the full compliance audit performance standards, mitigation for history shall be determined pursuant to Labor Code Section 129.5(e).
- (5) Mitigation based on whether or not the audit subject has met or exceeded the profile audit review performance standard is determined pursuant to Labor Code Section 129.5(c) (1) and (c)(2).
- (6) Mitigation based on whether or not the audit subject has met or exceeded the full compliance audit performance standard is determined pursuant to Labor Code Section 129.5(c)(3).
- (7) Consideration of penalty amounts based on the size of the audit subject location pursuant to Labor Code Section 129.5(c)(3) shall be based on the number of indemnity claims reported at the audit subject's location for the last audited year. For audit subjects that fail to meet or exceed the full compliance audit performance standards calculated pursuant to Section 10107.1(d)(3), after penalty amounts are calculated pursuant to subsections (a)(1) through (c)(6) of this section, penalty amounts will be modified based on the size of the adjusting location as follows:

Number of indemnity claims reported at the audit subject location in last audited	Multiply the penalty amount calculated pursuant to subsections (a)(1) through
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year:	(c)(6) of this section by the following factor:
Less than 65:	1.0
65-99	1.2
100-249	1.4
250-499	1.6
500-749	1.8
750-999	2.0
1,000-1,499	2.4
1,500-1,999	2.8
2,000-3,499	3.6
3,500 or more	7.2

- (8) The Audit Unit may assess penalties pursuant to subsections (a), (b), and (c) in target audits in which the claims were audited to evaluate specific practices but in which full compliance audit samples of claims were not randomly selected pursuant to Section 10107.1(c) through (e).

Note: Authority cited: Sections 59, 129, 129.5, 133, 138.3, 138.4, 139.5, 4603.5, 4627 and 5307.3, Labor Code. Reference: Sections 124, 129, 129.5, 4061, 4453, 4454, 4550, 4600, 4603.2, 4621, 4622, 4625, 4636 through 4638, 4639, 4641, 4642, 4650, 4951, 4701 through 4703.5, 4706, 4706.5 5401, 5401.6, 5402, 5800 and 5814, Labor Code and Section 2629.1(e), (f), Unemployment Insurance Code.